HOUSE BILL No. 1790

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10; IC 5-10.2-4.

Synopsis: Public pension and retirement benefits. Decreases from ten to eight the number of years of creditable service necessary for normal retirement for members of the Indiana state teachers' retirement fund (TRF) and members of the public employees' retirement fund (PERF) who retire after June 30, 2001. Decreases from 20 to 12 the number of calendar quarters used in determining the average annual compensation for the purpose of calculating pension benefits for PERF members who retire after June 30, 2001. Decreases from five to three the number of years used in determining the average annual compensation for the purpose of calculating pension benefits for TRF members who retire after June 30, 2001. Increases from 1.1% to 1.2% the multiplier used in calculating pension benefits for PERF and TRF members who retire after June 30, 2001. Requires the state to offer supplemental Medicare coverage to retired state employees and retired teachers. Requires the state to pay both the employer's and the employee's share of the health insurance premium for retired state employees who meet certain requirements. Authorizes the deposit of an amount that represents full credit for unused vacation, sick and personal days into a cafeteria plan for a participating retired state employee.

Effective: July 1, 2001.

Goodin

January 17, 2001, read first time and referred to Committee on Ways and Means.

Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1790

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10-8-8, AS AMENDED BY P.L.233-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) This section applies only to the state and its employees who are not covered by a plan established under section 6 of this chapter.

(b) After June 30, 1986, the state shall provide a group health insurance plan to each retired employee:

(1) whose retirement date is:

(A) after June 29, 1986, for a retired employee who was a member of the field examiners' retirement fund;

(B) after May 31, 1986, for a retired employee who was a member of the Indiana state teachers' retirement fund; or

(C) after June 30, 1986, for a retired employee not covered by clause (A) or (B);

(2) who will have reached fifty-five (55) years of age on or before the employee's retirement date; ~~but who will not be eligible on that date for Medicare coverage as prescribed by 42 U.S.C. 1395~~

~~et seq.;~~
(3) who will have completed twenty (20) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which shall have been completed immediately preceding the retirement; and
(4) who will have completed at least fifteen (15) years of participation in the retirement plan of which the employee is a member on or before the employee's retirement date.

(c) The state shall provide a group health insurance program to each retired employee:
(1) who is a retired judge;
(2) whose retirement date is after June 30, 1990;
(3) who is at least sixty-two (62) years of age;
(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and
(5) who has at least eight (8) years of service credit as a participant in the Indiana judges' retirement fund, with at least eight (8) years of that service credit completed immediately preceding the judge's retirement.

(d) The state shall provide a group health insurance program to each retired employee:
(1) who is a retired participant under the prosecuting attorneys retirement fund;
(2) whose retirement date is after January 1, 1990;
(3) who is at least sixty-two (62) years of age;
(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and
(5) who has at least ten (10) years of service credit as a participant in the prosecuting attorneys retirement fund, with at least ten (10) years of that service credit completed immediately preceding the participant's retirement.

(e) The state shall make available a group health insurance program to each former member of the general assembly or surviving spouse of each former member, if the former member:
(1) is no longer a member of the general assembly;
(2) is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq. or, in the case of a surviving spouse, the surviving spouse is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et. seq.; and
(3) has at least ten (10) years of service credit as a member in the general assembly.

A former member or surviving spouse of a former member who obtains insurance under this section is responsible for paying both the employer and the employee share of the cost of the coverage.

(f) **The group health insurance program required under subsection (b) must be equal to that offered active employees and must include supplemental Medicare coverage for retired employees who become eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq. A retired employee may participate in the group health insurance program if the retired employee within ninety (90) days after the later of:**

(1) the employee's retirement date; or

(2) the date the employee first becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.;

files a written request for insurance coverage with the employer.

(g) For a retired employee who complies with subsection (f), the employer shall pay an amount equal to:

(1) the sum of the employee's and employer's premium for the group health insurance for an active employee, in the case of a retired employee who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; or

(2) an amount established by the state in connection with the purchase or maintenance of supplemental Medicare coverage as a part of the group health insurance program required by subsection (b), in the case of a retired employee who is eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(h) The group health insurance program required under subsections ~~(b)~~ **(c)** through (e) must be equal to that offered active employees. The retired employee may participate in the group health insurance program if the retired employee pays an amount equal to the employer's and the employee's premium for the group health insurance for an active employee and if the retired employee within ninety (90) days after the employee's retirement date files a written request for insurance coverage with the employer. However, the employer may elect to pay any part of the retired employee's premium.

(i) This subsection applies to the group health insurance program required under subsection (b). A retired employee's eligibility to continue insurance under this section ends when the employer terminates the health insurance program. A retired employee who is eligible for insurance coverage under this section may elect to have the employee's spouse covered under the health insurance program at the time the employee retires. If a retired employee elects to have the employee's spouse covered under the employer's group health insurance program, the employer shall

pay the cost of the coverage. If a retired employee elects coverage for the retired employee's spouse under this subsection, the spouse's subsequent eligibility to continue insurance under this subsection is not affected by the death of the retired employee. The surviving spouse's eligibility ends on the earliest of the following:

(1) When the employer terminates the health insurance program.

(2) Two (2) years after the date of the employee's death.

(3) The date of the spouse's remarriage.

~~(g)~~ **(j) This subsection applies to the group health insurance program required under subsections (c) through (e).** A retired employee's eligibility to continue insurance under this section ends when the employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program. A retired employee who is eligible for insurance coverage under this section may elect to have the employee's spouse covered under the health insurance program at the time the employee retires. If a retired employee's spouse pays the amount the retired employee would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired employee. The surviving spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

(3) Two (2) years after the date of the employee's death.

(4) The date of the spouse's remarriage.

~~(h)~~ **(k)** This subsection does not apply to an employee who is entitled to group insurance coverage under IC 20-6.1-6-1(c). An employee who is on leave without pay is entitled to participate for ninety (90) days in any health insurance program maintained by the employer for active employees if the employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance.

~~(i)~~ **(l)** An employer may provide group health insurance for retired employees or their spouses not covered by this section and may provide group health insurance that contains provisions more favorable to retired employees and their spouses than required by this section. A public employer may provide group health insurance to an employee who is on leave without pay for a longer period than required by subsection ~~(h).~~ **(k).**

SECTION 2. IC 5-10-12-5, AS ADDED BY P.L.195-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. The amount that shall be deposited on behalf of a participating retired employee ~~may not exceed five thousand dollars ($5,000) and~~ is based on:

(1) the hourly rate the employee was paid; ~~on the employee's retirement date;~~ and

(2) ~~the following provisions concerning~~ **providing full credit to the employee for all of** the employee's accrued and unused vacation days, sick days, or personal days;

~~(A) An employee with at least ten (10) years of creditable service but less than fifteen (15) years of creditable service is entitled to an amount based on twenty percent (20%) of the employee's accrued days.~~

~~(B) An employee with at least fifteen (15) years of creditable service but less than twenty (20) years of creditable service is entitled to an amount based on thirty-five percent (35%) of the employee's accrued days.~~

~~(C) An employee with at least twenty (20) years of creditable service is entitled to an amount based on not more than fifty percent (50%) of the employee's accrued days.~~

on the employee's retirement date.

SECTION 3. IC 5-10.2-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) This subsection applies to:

(1) members of the public employees' retirement fund who retire before July 1, 1995; and

(2) members of the Indiana state teachers' retirement fund who retire before May 2, 1989.

A member who has reached age sixty-five (65) and has at least ten (10) years of creditable service is eligible for normal retirement.

(b) This subsection applies to members of the Indiana state teachers' retirement fund who retire after May 1, 1989, **and before July 1, 2001,** and to members of the public employees' retirement fund who retire after June 30, 1995, **and before July 1, 2001.** A member is eligible for normal retirement if:

(1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five

(55) years of age.

(c) **This subsection applies to members of the Indiana state teachers' retirement fund and members of the public employees' retirement fund who retire after June 30, 2001. A member is eligible for normal retirement if:**

(1) the member is at least sixty-five (65) years of age and has at least five (5) years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

~~(c)~~ **(d)** A member who has reached age fifty (50) and has at least fifteen (15) years of creditable service is eligible for early retirement with a reduced pension.

~~(d)~~ **(e)** A member who is eligible for normal or early retirement is entitled to choose a retirement date on which his benefit begins if the following conditions are met:

(1) The application for retirement benefits and the choice of the date is filed on a form provided by the board.

(2) The date must be after the cessation of his service and be the first day of a month.

(3) The retirement date is not more than six (6) months before the date the application is received by the board. However, if the board determines that a member is incompetent to file for benefits and choose a retirement date, the retirement date may be any date that is the first of the month after the time the member became incompetent.

SECTION 4. IC 5-10.2-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) **This subsection applies to members of the public employees' retirement fund who retire before July 1, 2001.** Except as provided in subsection ~~(e),~~ **(g),** in computing the retirement benefit for a nonteacher member, "average of the annual compensation" means the average annual compensation calculated using the twenty (20) calendar quarters of service in a position covered by the retirement fund before retirement in which the member's annual compensation was the highest. However, in order for a quarter to be included in the twenty (20) calendar quarters, the nonteacher member must have performed service throughout the calendar quarter. All twenty (20) calendar quarters do not have to be continuous but they must be in groups of four (4) consecutive calendar quarters. The same calendar quarter may not be included in two (2) different groups.

(b) **This subsection applies to members of the public employees' retirement fund who retire after June 30, 2001. Except as provided in subsection (g), in computing the retirement benefit for a nonteacher member, "average of the annual compensation" means the average annual compensation calculated using the twelve (12) calendar quarters of service in a position covered by the retirement fund before retirement in which the member's annual compensation was the highest. However, in order for a quarter to be included in the twelve (12) calendar quarters, the nonteacher member must have performed service throughout the calendar quarter. All twelve (12) calendar quarters do not have to be continuous but they must be in groups of four (4) consecutive calendar quarters. The same calendar quarter may not be included in two (2) different groups.**

(c) This subsection applies to members of the Indiana state teachers' retirement fund who retire before July 1, 2001. In computing the retirement benefit for a teacher member, "average of the annual compensation" means the average annual compensation for the five (5) years of service before retirement in which the member's annual compensation was highest. In order for a year to be included in the five (5) years, the teacher member must have received for the year credit under IC 21-6.1-4-2 for at least one-half (1/2) year of service. The five (5) years do not have to be continuous.

(d) This subsection applies to members of the Indiana state teachers' retirement fund who retire after June 30, 2001. In computing the retirement benefit for a teacher member, "average of the annual compensation" means the average annual compensation for the three (3) years of service before retirement in which the member's annual compensation was highest. In order for a year to be included in the three (3) years, the teacher member must have received for the year credit under IC 21-6.1-4-2 for at least one-half (1/2) year of service. The three (3) years do not have to be continuous.

~~(c)~~ **(e)** Subject to IC 5-10.2-2-1.5 "annual compensation" means the basic salary earned by and paid to the member plus the amount that would have been part of that salary but for:

(1) the state's, a school corporation's, a participating political subdivision's, or a state educational institution's (as defined in IC 20-12-0.5-1) paying the member's contribution to the fund for the member; or

(2) the member's salary reduction agreement established under

Section 125, 403(b), or 457 of the Internal Revenue Code.

The portion of a back pay award or a similar award that the board determines is compensation under an agreement or under a judicial or an administrative proceeding shall be allocated by the board among the years the member earned or should have earned the compensation. Only that portion of the award allocated to the year the award is made is considered to have been earned during the year the award was made. Interest on an award is not considered annual compensation for any year.

~~(d)~~ **(f)** Compensation of no more than two thousand dollars ($2,000) received from the employer in contemplation of the member's retirement, including severance pay, termination pay, retirement bonus, or commutation of unused sick leave or personal leave, may be included in the total annual compensation from which the average of the annual compensation is determined, if it is received:

(1) before the member ceases service; or

(2) within twelve (12) months after the member ceases service.

~~(e)~~ **(g)** This section applies to a member of the general assembly:

(1) who is a participant in the legislators' retirement system established under IC 2-3.5;

(2) who is also a member of the public employees' retirement fund or the state teachers' retirement fund; and

(3) whose years of service in the general assembly may not be considered in determining the average of the annual compensation under this section, as provided in IC 2-3.5-1-2(b)(2) or IC 2-3.5-3-1(c).

The board shall use the board's actuarial salary increase assumption to project the salary for any previous year needed to determine the average of the annual compensation.

SECTION 5. IC 5-10.2-4-4, AS AMENDED BY P.L.195-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The computation of benefits under this section is subject to IC 5-10.2-2-1.5.

(b) For retirement benefits payable on and after July 1, 1975, for a member retired on and after January 1, 1956, **and before July 1, 2001,** the pension (p) is computed as follows:

STEP ONE: Multiply one and one-tenths percent (1.1%) times the average of the annual compensation (aac) and obtain a product.

STEP TWO: To obtain the pension, multiply the STEP ONE product by the total creditable service (scr) completed by the member on his retirement date.

Expressed mathematically:

p = (.011) times (aac) times (scr)

(c) **For retirement benefits payable on and after July 1, 2001, for a member who retires after June 30, 2001, the pension (p) is computed as follows:**

STEP ONE: Multiply one and two-tenths percent (1.2%) times the average of the annual compensation (aac) and obtain a product.

STEP TWO: To obtain the pension, multiply the STEP ONE product by the total creditable service (scr) completed by the member on his retirement date.

Expressed mathematically:

p = (.012) times (aac) times (scr)

(d) Unless the member has chosen a lump sum payment under section 2 of this chapter or elects to defer receiving in any form the member's annuity savings account under section 2(c) of this chapter, the annuity is the amount purchasable on the member's retirement date by the amount credited to the member in the annuity savings account. The amount purchasable is based on actuarial tables adopted by the board under IC 5-10.2-2-10 at an interest rate determined by the board.

SECTION 6. [EFFECTIVE JULY 1, 2001] **31 IAC 4-4 and 31 IAC 4-6 are void. The publisher of the Indiana Administrative Code and Indiana Register shall remove these rules from the Indiana Administrative Code.**